

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: LITTLE SIOUX CORN PROCESSORS, L.P.	DOCKET NO. P-847
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**ORDER ESTABLISHING PROCEDURAL SCHEDULE AND PROPOSING TO TAKE
OFFICIAL NOTICE AND NOTICE OF HEARING**

(Issued July 25, 2002)

On May 7, 2002, Little Sioux Corn Processors, L.P. (Little Sioux) filed a petition and exhibits for a permit to construct, operate, and maintain a natural gas pipeline approximately 0.85 miles long in Cherokee County, Iowa. The proposed six-inch diameter steel pipeline will transport natural gas to a corn processing plant east of Marcus, Iowa, that will convert corn into ethanol.

On July 24, 2002, the Utilities Board (Board) assigned this proceeding to a presiding officer and directed that a procedural schedule be established and a date set for hearing.

The Board's Authority and Jurisdiction

The Board has authority to grant permits for pipelines in whole or in part upon terms, conditions, and restrictions as to safety requirements, and as to location and

route, as it determines to be just and proper. Iowa Code §§ 479.12 and 479.18 (2001).

To obtain a permit, the petitioner must show that the services it proposes to render will promote the public convenience and necessity. Iowa Code § 479.12.

The petitioner must also satisfy the financial requirements of Iowa Code § 479.26.

The petitioner must also comply with the land restoration plan requirements of Iowa Code § 479.29 and Board rules at 199 IAC 9.

The Issues

Pursuant to Iowa Code §§ 479.7 and 479.8 and 199 IAC 10.6, this matter will be set for a public hearing for the presentation of oral and documentary evidence and the cross-examination of witnesses concerning the public convenience and necessity issue, any safety issues, any pipeline location and route issues, the financial issues, land restoration plan issues, and issues raised by objectors or any other party. The conduct of this case will be governed by Iowa Code Chapters 17A and 479, and by Board rules at 199 IAC 9 and 10.

Prepared Testimony and Exhibits

All parties will be given the opportunity to present and respond to evidence and argument on all issues and to be represented by counsel at their own expense. Iowa Code § 17A.12(4). The proposed decision and order that the administrative law judge will issue in this case must be based on evidence contained in the record and on matters officially noticed in the record. Iowa Code § 17A.12(8). Unless contrary

arrangements are made on the record at the hearing, all evidence will be received at the hearing, and the record will be closed to any further evidence at the conclusion of the hearing.

The submission of prepared evidence prior to hearing will help to identify disputed issues of fact to be addressed at the hearing. Prepared testimony contains all statements that a witness intends to give under oath at the hearing, set forth in question and answer form. When a witness who has submitted prepared testimony takes the stand, the witness does not ordinarily repeat the written testimony or give a substantial amount of new testimony. Instead, the witness is cross-examined by the other parties concerning the statements already made in writing. The use of prepared testimony prevents surprise at the hearing and helps each party to prepare adequately for the hearing, so that a full and true disclosure of the facts can be obtained. Iowa Code §§ 17A.14(1), 17A.14(3) and 479.11. This procedure also tends to diminish the length of the hearing and spares the parties the expense and inconvenience of additional hearings.

Little Sioux must submit prepared testimony and exhibits prior to the hearing. At a minimum, Little Sioux's prepared testimony must address the issues listed above. In addition, its prepared testimony must state who will construct the pipeline, and whether an agreement with Aquila Inc., d/b/a Aquila Networks, f/k/a Peoples Natural Gas Company, Division of UtiliCorp United Inc. (Aquila), for operation and maintenance of the pipeline has been signed.

The Consumer Advocate Division of the Department of Justice (Consumer Advocate), and any objectors may also file prepared testimony and exhibits before the hearing in accordance with the procedural schedule.

Parties who choose not to file prepared testimony and exhibits before the hearing will not be precluded from participating in the proceedings. If an objector, for example, does not intend to present evidence going substantially beyond the information contained in the letter of objection, it is unnecessary for the objector to file prepared testimony. However, when a party has a substantial amount of information to present to the Board about the petition, if the information has not been previously disclosed to the Board, it should be presented in the form of prepared testimony and exhibits according to the procedural schedule established below.

Party Status

Little Sioux and the Consumer Advocate are currently the only parties to this proceeding. Iowa Code §§ 17A.2(8) and 475A.2. No one has filed an objection to the petition as of the date of this order.

Anyone who has filed or will file an objection pursuant to Iowa Code §§ 479.9 and 479.10 and 199 IAC 10.5 will also be presumed to be a party to this case. However, no objector is entitled to party status merely because that person has written a letter. In order to qualify as a party, the objector must be able to demonstrate some right or interest that may be affected by the granting of the permit. Iowa Code § 479.9. An objector's status as a party may be challenged at the

hearing, and an objector who cannot demonstrate a right or interest that may be affected by the granting of the permit will no longer be considered a party.

Therefore, at a minimum, objectors should be prepared to give evidence that will explain the nature of their specific rights or interests they believe should be protected and will show how these rights or interests will be affected by the pipeline. As has already been noted, to the extent that the evidence goes substantially beyond information already communicated to the Board in an objection letter, it should be reduced to writing and filed as prepared testimony according to the procedural schedule established below.

Because objectors will be presumed to be parties up to the time of the hearing, an objector will receive copies of all documents that are filed in this docket after the letter of objection has been filed with the Board. This means that if a person files an objection after some or all of the prepared testimony and exhibits have already been filed with the Board by other parties, the objector should make direct contact with the parties who have already filed prepared testimony and exhibits in order to obtain a copy of those materials. The official file of this case will be available for inspection at the Utilities Board Records Center, 350 Maple Street, Des Moines, Iowa. 199 IAC 1.9(1).

Objections must be filed not less than five days prior to the date of hearing. Late filed objections may be permitted if good cause is shown. 199 IAC 10.5. Objections must be made in writing and filed with the Executive Secretary of the Utilities Board, 350 Maple Street, Des Moines, Iowa 50319-0069.

After an objector has filed a letter of objection, all further communications from the objector to the Board having to do with this case (including motions or prepared testimony and exhibits) must be sent to the Executive Secretary. A party (including objectors) must file an original and two copies of each communication with the Executive Secretary, and the party must send one copy to each of the other parties to this case. 199 IAC 1.8. Along with the communication being sent, the party must file with the Board a certificate of service that conforms to 199 IAC 2.2(16), which verifies a copy of the document was served upon the other parties. These procedures are necessary to comply with Iowa Code § 17A.17 (2001), which provides in part:

Unless required for the disposition of ex parte matters specifically authorized by statute, parties or their representatives in a contested case and persons with a direct or indirect interest in such a case *shall not communicate, directly or indirectly, in connection with any issue of fact or law in that contested case, with a presiding officer in that contested case, except upon notice and opportunity for all parties to participate* as shall be provided for by agency rules.

Iowa Code §§ 17A.17(2) (emphasis added). Objectors and parties should examine 199 IAC Ch. 10 and 199 IAC 1.8 for other substantive and procedural rules that apply to this case.

Proposal to Take Official Notice

Mr. Jeffrey L. O'Neal, utility regulatory engineer for the Safety & Engineering Section, has prepared a memo dated July 12, 2002, concerning Little Sioux's petition pursuant to Iowa Code § 479.11. Mr. Gary R. Burnett, utility regulatory inspector for

the Safety & Engineering Section, has prepared a memo dated May 20, 2002, concerning the proposed route. A copy of each memo is attached to this order. Pursuant to Iowa Code § 17A.14(4), the administrative law judge proposes to take official notice of the memos and of the facts contained therein, thus making them a part of the record of this case. Iowa Code § 17A.12(6)(c). Any party objecting to the taking of official notice of the memos must file such objection as soon as possible, and no later than five days prior to the hearing. The parties will have the opportunity to contest any information contained in the memos in prefiled testimony and at the hearing.

IT IS THEREFORE ORDERED:

1. Each person who files a letter of objection to Little Sioux's petition in this docket will be presumed to be a party in the proceeding unless it is established at hearing that the objector has no right or interest that may be affected by the pipeline.
2. Objections must be made in writing and filed with the Executive Secretary of the Utilities Board, 350 Maple Street, Des Moines, Iowa 50319-0069, no later than five days before the hearing. Objectors must file an original and two copies of all subsequent communications to the Board with the Executive Secretary. The communications must be accompanied by a certificate of service.
3. The following procedural schedule is established:

a. On or before August 8, 2002, Little Sioux must file prepared direct testimony relating to its petition for a permit to construct, operate, and maintain a natural gas pipeline as discussed above.

b. On or before August 22, 2002, the Consumer Advocate and any objector may file prepared responsive testimony.

c. A public hearing for the presentation of evidence and the cross-examination of witnesses concerning the issues identified in this notice of hearing will be held at 9:30 a.m. on Thursday, August 29, 2002, in the staff conference room, Utilities Board, 350 Maple Street, Des Moines, Iowa. The hearing will be by telephone conference call unless any objections to holding the hearing by telephone conference call are received prior to Thursday, August 22, 2002. Persons with disabilities who will require assistive services or devices to observe this hearing or participate in it should contact the Utilities Board at (515) 281-5256 in advance of the scheduled date to request that appropriate arrangements be made.

d. Required number of copies. All parties must file an original and two copies of all documents filed with the Board. 199 IAC 1.8(4)"d."

4. The administrative law judge proposes to take official notice of Mr. O'Neal's memo dated July 12, 2002, and Mr. Burnett's memo dated May 20, 2002, and of the facts contained therein. A copy of each memo is attached to this order. Any party objecting to the taking of official notice of the memos should file such objection as soon as possible, and must file such objection no later than five

days prior to the hearing. Any party desiring to cross-examine Mr. O'Neal or Mr. Burnett concerning the statements contained in the memos must file a notice of intent to cross-examine no later than five days prior to the hearing.

5. Pursuant to Iowa Code §§ 17A.12(1) and 199 IAC 10.4, a copy of this order will be served by ordinary mail upon Little Sioux and the Consumer Advocate. No persons have filed objections to the petition as of the date of this order.

UTILITIES BOARD

/s/ Amy L. Christensen
Amy L. Christensen
Administrative Law Judge

ATTEST:

/s/ Sharon Mayer
Executive Secretary, Assistant to

Dated at Des Moines, Iowa, this 25th day of July, 2002.

Department of Commerce
UTILITIES DIVISION
SAFETY & ENGINEERING SECTION

TO: DOCKET NO. P-847

FROM: JEFFREY L. O'NEAL

DATE: JULY 12, 2002

**SUBJ: LITTLE SIOUX CORN PROCESSORS PETITION FOR
PIPELINE PERMIT**

Petition

On May 7, 2002, Little Sioux Corn Processors, L.P. (Little Sioux) filed a petition and exhibits for a natural gas pipeline permit to construct, operate and maintain 0.85 miles of six-inch diameter, steel pipeline in Cherokee County, Iowa, with a maximum allowable operating pressure of 270 psig. The pipeline would provide fuel for a corn processing plant east of Marcus, Iowa, that will convert corn into ethanol.

A review of the petition revealed items requiring correction or clarification. Little Sioux was notified of the deficiencies by letter dated June 3, 2002. Little Sioux filed revised exhibits on July 9, 2002, correcting the deficiencies.

No informational meeting was held because the line will be less than 5 miles long. See Iowa Code § 479.5 (2001). The petition does not request the right of eminent domain. No objections have been filed.

I have reviewed the petition and exhibits in this docket. The proposed pipeline meets all design, testing, and construction requirements.

Exhibit F states the pipeline will be operated and maintained by Aquila, according to Aquila's established standards and procedures. Little Sioux and Aquila are negotiating an agreement, and expect to have a signed agreement prior to the permit hearing. The filing does not state who will construct the pipeline.

Route

On May 16, 2002, Gary Burnett of board staff inspected the proposed route of the pipeline. The pipeline route is on gently rolling, privately owned cropland

except where it crosses 480th Street. In his report dated May 20, 2002, Mr. Burnett concluded, "Nothing was noted that would make the proposed route unacceptable or cause unusual construction problems."

Conclusions

The filing is in order. No problems were noted with the proposed route. The proposed pipeline meets all design, testing and construction requirements administered by the board.

Little Sioux should be asked to address in prefiled testimony or at the hearing whether an agreement with Aquila for operation and maintenance of the pipeline has been signed. They should also be asked who will construct the pipeline.

Iowa Utilities Board

SAFETY AND ENGINEERING SECTION

TO: Docket No. P-847 File

FROM: Gary R. Burnett

DATE: **MAY 20, 2002**

SUBJ: Little Sioux Corn Processors, L.P.
Petition For Natural Gas Pipeline Permit

On May 1, 2002 Little Sioux Corn Processors, L.P. filed a petition for a natural gas pipeline permit with the Iowa Utilities Board. Little Sioux Corn Processors, L.P. proposes to construct approximately 0.85 miles of 6.625 inch diameter steel pipeline for the transportation of natural gas from Northern Natural Gas (NNG). The line will connect at the intersection of 480th Street and E Avenue (NNG pipeline marker IM 60801) near Marcus, Iowa in Cherokee County, and run to a grain processing plant. The plant will sit approximately 0.75 miles east of 480th Street and E Avenue.

On May 16, 2002 an inspection was conducted of the proposed route. On the day of the inspection the weather was cloudy, cool, and dry. The petition Exhibit B (map) and Exhibit A-1 (legal route description) were used as a guide. The exhibits show the pipeline will originate near the intersection of 480th Street and E Avenue where Northern Natural Gas (NNG) will make a new Tap and build a Town Border Station (TBS) on its interstate natural gas transmission pipeline. The pipeline will be routed through privately owned lands and for most of its length would run parallel along the north side of 480th Street. However the pipeline will turn south and run under 480th Street at the plant entrance. The land is gentle and rolling through out the total distance. It consists of mostly row cropland (field corn and soybean). The only areas not in cropland is where the pipeline crosses 480th Street.

There are no farm homes, schools, churches, playgrounds or county parks along the route. There are no trees, waterways, or streams of significance to be crossed on this route. The filing anticipates that the pipeline will make the normal amount of crossings of drain tile. This statement cannot be confirmed but this appears an area where drain tile would be common.

The pipeline may be classified as in a Class 1 location, however the operator will be building and maintaining the pipeline as a Class 3 location pipeline. Nothing was noted that would make the proposed route unacceptable or cause unusual construction problems.

**P-847, Little Sioux Corn Processors, Proposed Pipeline Route.
Photos taken May 16, 2002, by Gary Burnett.**



Photo 1 - Looking south at NNG line marker 60801 on E Ave & 480th St. near Marcus.



Photo 2 - Looking east toward plant from NNG marker 60801.



Photo 3 - Looking east (midway) toward plant from E Ave & 480th St.



Photo 4 - Looking west from high point toward line marker 60801.



Photo 5 - Looking east from high point toward plant.



Photo 6 - Looking east at small waterway approximately midway.



Photo 7 - Small waterway.



Photo 8 - Looking west from second high point close to plant.



Photo 9 - Looking east from second high point close to plant.



Photo 10 - Pipeline plant entrance.



Photo 11 - Looking west toward E Ave & 480th St. from plant.



Photo 12 - Gas meter and regulator plant pad just left of concrete truck.